



**SOUTH COTTONWOOD CANYON
ZONING REGULATION
AND ZONING MAP**

Adopted: June 21, 2005

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1.00 GENERAL PROVISIONS

1.01 Title, Creation and Adoption

1.01.1 This Regulation shall be known as the South Cottonwood Canyon Zoning Regulation. It is adopted for the South Cottonwood Canyon Zoning District which was created on _____.

1.01.2 This Regulation is adopted pursuant to 76-2-201 et. seq., MCA, in accordance with the Gallatin County Growth Policy.

1.01.3 Copies of the Regulation and Zoning Map are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department (Planning Department).

ADOPTION

The Commission adopted the South Cottonwood Canyon Map and Zoning Regulation on

_____.

GALLATIN COUNTY COMMISSION

William A. Murdock, Chair

John Vincent, Member

Joe Skinner, Member

ATTEST:

Shelley Vance, Clerk and Recorder

1.02 Application of District Regulations

- 1.02.1 Application. The requirements established by this Regulation are minimum regulations and apply uniformly to each class or kind of structure or land throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

This Regulation includes a “grandfather clause” in accordance with Section 76-2-208, MCA, which allows existing non-conforming lots, structures, uses of land, and other characteristics which would otherwise be restricted or regulated under the terms of this Regulation, to continue as non-conforming. Property owners of legally existing non-conforming lots, structures, and uses of land may apply for a conditional use permit to change, alter, enlarge, and expand pursuant to Section 4.02.

- 1.02.2 Zoning Regulation Conformance. All new construction is potentially subject to the provisions of this Regulation. Property owners are responsible for ensuring all activity within District boundaries conforms to this Regulation.

- 1.02.3 Exception. Under certain circumstances, the Zoning Enforcement Agent may exempt public utility pipelines, wells, or structures necessary for provision of services required for public health and safety, from provisions of this Regulation.

- 1.02.4 Vesting. An application made within the District is subject to the Regulation that is in effect at that time.

- 1.02.5 Contradictions. If the requirements of this Regulation conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.

- 1.02.6 Interpretations. The Zoning Enforcement Agent, County Planning Board, and the Gallatin County Commission (Commission) can make official interpretations of the map and zoning Regulation. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Commission shall determine the appropriate classification of that use.

In interpreting a use classification, the Commission shall consider the matter in an office meeting and determine that the use and its operation:

1. Is compatible with the uses permitted in the district.
2. Is similar to one or more uses permitted in the district.
3. Will not adversely affect property in the neighborhood or district.
4. Will not abrogate the intent of the Plan or this Regulation by such classification.

1.03 Intent and Purpose

1.03.1 This Regulation has been made in accordance with the Gallatin County Growth Policy for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with Section 76-2-203, MCA, this Regulation is designed to:

1. Lessen congestion on the roads (and specifically South Cottonwood Canyon Road).
2. Secure safety from fire, panic, and other dangers.
3. Provide adequate air and light.
4. Prevent overcrowding of land.
5. Avoid undue concentration of population.
6. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
7. Give reasonable consideration to the character of the district and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land.

1.03.2 Additional purposes of this Regulation include, but are not limited to, the following:

1. Preserve and maintain the rural nature and scenic, open space qualities and sustain wildlife habitat and migration.
2. Preserve agricultural lands.
3. Preserve the rural residential character and quietude of the area.
4. Allow for development compatible to agriculture and rural residential uses.
5. Promote fire mitigation techniques to lessen the threat of wildfires.
6. Preserve the night sky visibility.
7. Protect property values.
8. Prevent degradation of the water in the South Cottonwood Canyon watershed.

1.04 Invalidation and Severability

- 1.04.1 If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of this Regulation, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of the regulations to render the same operative and reasonably effective for carrying out the main purpose and intention of this Regulation.

2.00 ZONING DISTRICT PROVISIONS

2.01 Agricultural and Rural Residential District (AR)

2.01.1 Intent. The intent of this district is to:

- Preserve and maintain the rural nature and scenic, open space qualities.
- Preserve agricultural lands.
- Preserve the rural residential character.
- Allow for development compatible to agriculture and rural residential uses.
- Promote public health, safety and general welfare.

2.01.2 Principal Uses

1. Agriculture
2. Dwelling, Single-family

2.01.3 Accessory Uses

1. Dwelling, accessory.
2. Garage, private residential.
3. Home occupation.
4. Incidental uses customary to agricultural operations.
5. Incidental uses customary to rural residential.
6. Equestrian facility, personal.

2.01.4 Conditional Uses

1. Employee housing for agricultural operations.
2. Expansion of a non-conforming structure.
3. Expansion of a non-conforming use.
4. Extension of the cessation period for non-conforming uses (Section 4.02.5.4).
5. Structure height greater than 36 feet (agricultural structures are exempt).
6. Natural resources.
7. Home-based business.
8. Bed and breakfast inn (five or fewer rooms).
9. Height greater than six feet for a permitted sign.
10. Retreat Center, Church or Youth Camp.

2.01.5 Development Density for Principal Uses

1. One single-family dwelling per 20-acre parcel.

2.01.6 Development Density for Accessory Dwellings

1. One accessory dwelling per 20-acre parcel.

2. Parcels larger than 20 acres may have one accessory dwelling per each 20-acre portion of the parcel (resulting in a density of 1:20 overall).
3. Parcels larger than 20 acres with portions within 10 percent of an increment of 20 acres may also qualify for 1:20 density for accessory dwellings.

2.01.7 Required Setbacks

- | | |
|---------------------------|--|
| 1. Property Lines | 25 feet |
| 2. Cottonwood Road | 50 feet |
| 3. Cottonwood Canyon Road | 50 feet |
| 4. Cottonwood Creek | 100 feet from the annual mean high water line. |
| 5. Irrigation Ditch | 35 feet |

2.01.8 Maximum Structure Height

1. 36 feet

3.00 BUILDING AND DEVELOPMENT STANDARDS

3.01 General Building and Development Standards

3.01.1 Intent. The purpose of this section is to establish general development standards. These standards are intended and designed to assure compatibility of uses, protect the environment, preserve privacy and the character of the South Cottonwood Canyon Community; and to enhance the health, safety and general welfare of district residents. These standards supplement the specific district regulations set forth in the zoning regulation.

3.01.2 Accessory Dwelling. An accessory dwelling must be located on the same parcel as the principal dwelling and cannot be subdivided from the parcel on which they are located. An accessory dwelling can either be attached or detached to the principal dwelling. An accessory dwelling is subordinate to the principal dwelling and includes an apartment, caretaker's residence, agricultural employee housing and guesthouse.

1. A minimum of one on-site parking space shall be provided for an accessory dwelling unit.
2. Nothing herein precludes the construction of the principal dwelling after the accessory dwelling provided all regulations are met.

3.01.3 Animal-Proof Refuse Containers. All refuse shall be stored in animal-proof containers or made unavailable to all domestic and wild animals.

3.01.4 Bed and Breakfast Inn. All bed and breakfast inns shall be subject to the following standards:

1. The proprietor or operator shall reside in the bed and breakfast inn.
2. The number of bedrooms available for guests shall be five or fewer.
3. Food service shall be limited to breakfast, which may be served to overnight guests only, and shall be prepared from an on site, central kitchen facility.
4. There shall be no alteration to the exterior of the structure that would detract from the residential character. Any alteration to the exterior of the structure that is for the purpose of increasing the number of guest rooms shall be reviewed as a conditional use.
5. One parking space per guest room shall be provided, in addition to the two parking spaces required for a dwelling unit.

3.01.5 Fences and Walls. Fences and walls may be located on lot lines provided such fences do not exceed six feet in height. Fences exceeding six feet in height shall be subject to the minimum setback requirements.

3.01.6 Home-based Business. A home-based business shall meet the following standards:

1. A home-based business shall be operated by a person residing within the dwelling.
2. No home-based business shall have more than three employees residing off-premises and may include contracting businesses; service businesses; offices; music, art, or other schools instruction; individual artist studios and galleries.
3. The home-based business shall not change the residential character of the lot or adversely affect adjacent properties or the uses permitted in the district.
4. All vehicles, materials, and solid waste related to the home-based business must be located within structures or screened from view.
5. All parking shall be provided on site.

3.01.7 Home Occupation. A home occupation shall met the following standards:

1. A home occupation shall be operated by a person residing within the dwelling.
2. Uses permitted are professional services such as accountant, physician, real estate agent; individual artist studios and galleries, handcraft studio, music studio, or similar studio uses; a tailor; repair of furniture and small appliances; tutoring or classes for no more than two students at one time; and counseling primarily for individual persons.
3. No one residing off premises may be employed on the premises of a home occupation for work related to the occupation.
4. All parking shall be provided on site.

3.01.8 Outdoor Lighting. Outdoor lighting which is necessary for adequate safety, utility, commerce, security and utility is permitted provided it does not interfere with the privacy of others or the safety and enjoyment of property which is not intended to be illuminated; cause the loss of the scenic view of the night sky; or does not produce glare. Permitted outdoor lighting shall meet the following conditions:

1. Lighting fixtures shall be located, aimed, and shielded so that direct illumination is focused exclusively on the structure façade, landscape, or other intended site feature and away from adjoining properties and the public right-of-way.
2. Lighting fixtures affixed to dwelling exteriors shall not exceed the height of the highest eave of the structure on which the light is located.
3. Motion sensor activated lighting that is triggered by movement located on the property on which the light is located.
4. Lighting fixtures mounted to an agricultural structure shall not extend more than four feet above the highest part of the structure.

5. Landscaping, walkway, driveway, sidewalk, bikeway lighting is limited to the path of travel area plus five feet on either side of the path of travel.
 6. All-nonconforming outdoor light fixtures lawfully installed prior to and operable on the effective date of the regulation are exempt from all lighting requirements. However, there shall be no change in use or lamp type, or any replacement (except the same type and output lamp replacement), or structure alterations made and if so, all changes shall comply with applicable regulations.
 7. Outdoor lighting not permitted in the district includes:
 - a. Mercury-vapor lamps.
 - b. High-pressure sodium lamps.
 - c. Blinking, flashing, moving, revolving, flickering, changing color, or chase lighting, except lighting for temporary seasonal displays, or lighting for public safety.
 - d. Searchlights, floodlights, beacons or other similar high intensity lighting.
 - e. Laser-source lighting.
 - f. Any upward-oriented lighting.
- 3.01.9 Parking. A minimum of two on-site parking spaces shall be provided for every principal dwelling unit. Parking on Cottonwood Canyon Road is prohibited.
- 3.01.10 Stream Setbacks. All buildings and site improvements shall maintain a minimum setback of 100 feet from the annual mean high water line of all streams, creeks and other channels that carry water year round.
- 3.01.11 Signs. Blinking, flashing, moving, revolving, flickering, changing color, neon, banner, and billboard signs are not allowed in the district. Permitted signs shall meet the following conditions:
1. Permitted signs are limited to a total surface area not exceeding 12 square feet.
 2. Permitted signs shall be attached to or mounted on a freestanding pole(s) or post; or supported by a monument style pedestal.
 3. Permitted signs (and supporting structure) shall be limited to a maximum height of six feet above grade. All signs exceeding six feet in height shall be reviewed pursuant to the Conditional Use Permit process.
 4. A “portal sign” which identifies the property owner (with name and/or address, brand, or similar) shall be located on the premises and at the entrance to the property.
 5. One permitted portal sign per property may be illuminated but shall limit the illumination time to when needed for safety or directional purposes.
 6. A handmade sign located on private property to reduce speed as a caution for children, domestic animals, livestock, or wildlife are allowed.

7. Home Occupation and Home-Based Business signs shall contain only the name, occupation and logo of the permitted home based business or home occupation.

3.01.12 Wildfire Mitigation.

1. All new construction and replacement roofing on structures shall use only Class A or Class B fire-rated roofing materials. (Refer to Appendix A)
2. Spark arrestor screens shall be placed on fireplace and wood stove chimneys.
3. Smoke detectors shall be installed according to International Building Code suggested use.
4. Defensible space shall be created and maintained in accordance with the vegetation reduction and clearance guidelines of the fire protection guidelines for wildland interface development. (Refer to Appendix A)

3.01.13 Retreat Center, Church or Youth Camp.

1. Adequate parking for all guests shall be provided on site.
2. Outdoor lighting shall comply with Section 3.01.8. Recreational activity areas shall remain illuminated when in use only.
3. Outside quiet hours (intended to retain noise from programmed activities to within the property) shall be observed between the hours of 11:00 p.m. and 7:30 a.m., except on special occasions such as New Years Eve and 4th of July.
4. All activity areas shall be designed to protect and ensure the general safety and welfare of participants, area residents, and wildlife.
5. Permanent housing for staff shall be allowed on site to assure ongoing operations.

3.01.14 Mobile, Modular, and Manufactured Homes.

Mobile, modular, and manufactured homes qualify as single-family dwellings and shall comply with the zoning district provisions (Section 2); and in order to achieve acceptable similarity in appearance and construction between conventional or site-built housing and mobile, modular, and manufactured homes, the following standards shall also apply:

1. All Mobile, Modular, and Manufactured Homes:
 - a. Dwellings shall be permanently connected to utility services in compliance with applicable codes.
 - b. Dwellings shall be physically connected to a permanent foundation compatible with conventionally built housing in surrounding area.
 - c. Roofs shall have sloping lines with eaves, and shall be compatible with conventionally housing in surrounding area.

- d. Roofing material shall be of same fire resistant material required of conventional housing in the district pursuant to Section 3.01.12.
- e. The exterior covering material shall be similar and compatible to materials of housing in surrounding area. Reflection from the exterior material shall not be greater than from siding coated with clean white, gloss, exterior enamel.
- f. The exterior covering color (including roof) shall be similar and compatible to colors of housing in surrounding area.

2. Mobile Homes. In addition to all of the above, the following standards apply:

- a. All mobile home dwellings must bear an insignia, which attests that the construction of the mobile home meets the Mobile Home Construction and Safety Standards of the US Department of Housing and Urban Development.
- b. Mobile home skirting must be provided around the entire perimeter of the dwelling. The skirting shall match the color and material of the exterior covering, and shall extend to the ground to conceal the underside of the mobile home and the permanent foundation.
- c. An abandoned, burned, or wrecked mobile home must be secured against entry and may remain on the lot for no more than 45 days in the abandoned, burned, or wrecked condition.

3.01.15 Outdoor Storage. Stored items shall be located within structures or screened from public view.

4.00 ADMINISTRATION PROVISIONS

4.01 Administration

4.01.1 Intent. The intent of this Regulation is to regulate and promote orderly development.

4.01.2 Zoning Enforcement Agent. The Zoning Enforcement Agent supervises and enforces the provisions of this Regulation pursuant to Section 76-2-210, MCA. This consists of, but is not limited to, issuing land use permits, enforcing violations and reviewing applications for conditional use permits, variances, rezoning requests and amendments to the Regulation.

4.01.3 Advisory Committee. The Commission may create a non-remunerative advisory committee, of up to five members, to make recommendations within the District. Members are freeholders in the District. Advisory Committee members are appointed for two-year staggered terms. Initially, two members are appointed for one-year terms and three members are appointed for two-year terms.

Advisory Committee recommendations are advisory only and are not binding upon the Commission. Advisory Committee meetings are open to the public and noticed accordingly. The Advisory Committee may also notify the Zoning Enforcement Agent of alleged violations within the District.

4.01.4 Board of Adjustment. The Commission shall appoint a five-member Board of Adjustment (the “BOA”). The role of the BOA is:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Regulation.
2. To hear and decide variances (special exceptions) to the Regulation that will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the regulations will result in an unnecessary hardship, and so that the spirit of the Regulation is observed and substantial justice done.

The BOA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or administrative determination made by the Planning Director appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all of the powers of the officer from whom the appeal is taken, (Section 76-2-223, MCA). The concurring vote of three members of the BOA shall be necessary to grant a variance, reverse any order, requirement, decision, or determination of any such administrative official (Section 76-2-224, MCA).

4.01.5 County Planning Board. The 11-member Gallatin County Planning Board (the “Planning Board”) consists of resident freeholders serving in an advisory capacity to the

Commission. The Planning Board's role is to make recommendations on the revision of boundaries and the amendment of regulations (Sections 76-2-204 and 76-2-205, MCA).

4.01.6 County Commission. The Commission reserves the right to, after public notice and hearing, deny, approve or conditionally approve all conditional use applications.

4.01.7 Administrative Appeals Process. Those aggrieved by Zoning Enforcement Agent's decisions may submit written appeals specifying the grounds thereof to the BOA. Appeals must be filed within 10 working days of the Zoning Enforcement Agent's written decision.

Notice of the hearing shall be published once in a newspaper of general circulation at least 15 days prior to the hearing. The BOA will accept testimony at the hearing from persons interested in the appeal, the appellant and/or their attorney, and the Zoning Enforcement Agent.

4.01.8 BOA Appeals Process. Those aggrieved by the BOA's decisions may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after filing the BOA's minutes or decision in the Planning Department (Section 76-2-227, MCA).

4.01.9 Schedule of Fees. The Commission sets fees for all applications; including but not limited to land use permits, zone changes, conditional use permits, and variances. The Commission will not take action on an item until fees are paid in full. Fees are non-refundable.

4.01.10 Violations and Penalties. A violation of this Regulation, any condition imposed through the authority of this Regulation, or any variance granted through this Regulation is a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months or both (Section 76-2-211, MCA).

4.02 Non-Conforming Lots, Uses and Structures

- 4.02.1 Intent. Within the districts established by this Regulation, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before this Regulation was adopted or amended, but which would be prohibited, regulated or restricted under terms of this Regulation or future amendments. It is the intent of this Regulation that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district, unless granted an approved conditional use permit.

Non-conforming uses are declared by this Regulation to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in this Regulation shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction lawfully begun prior to the effective date of adoption or amendment to this Regulation and which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

A property owner may apply to change, alter, enlarge, or expand a non-conforming use or structure pursuant to the conditional use permit process (Section 4.04).

- 4.02.2 Non-Conforming Parcels of Record. In any district, structures permitted in said district may be erected on any non-conforming parcel, which was of record on the effective date of this Regulation. All other requirements and restrictions of the district apply to a parcel of record that does not meet parcel area requirements.

A non-conforming parcel of land shall not be divided or changed in any way to reduce the area of the original parcel or increase its non-conformity.

- 4.02.3 Non-Conforming Uses of Land. Where at the time of the adoption of this Regulation lawful use of land exist which would not be permitted by this Regulation, the use may be continued so long as it remains otherwise lawful, provided:

1. A legal non-conforming use may only be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Regulation after being granted an approved conditional use permit.
2. A legal non-conforming uses may only be moved in whole or in part to any portion of the lot or parcel not occupied by such use at the effective date of adoption or amendment of this Regulation after being granted an approved conditional use permit.
3. If any such non-conforming use of land, with the exception of seasonal uses, ceases for any reason for a period of more than 12 months, any subsequent use of such land

shall conform to the regulations classified by this Regulation for the district in which the land is located. If a seasonal use ceases for the use of two consecutive seasons, then subsequent use of such land shall conform to this Regulation.

4. Replacement of pre-existing non-conforming septic disposal drainfields shall be permitted provided that a permit is issued by the Gallatin City-County Health Department.
5. Any non-conforming use of land superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.

4.02.4 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Regulation that could not be built under the terms of this Regulation by reason of restriction on parcel, area, height, yards, its location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A legal non-conforming structure may only be altered or enlarged which increases its non-conformity after being granted an approved conditional use permit. Any structure or portion thereof may be altered to decrease its non-conformity without a conditional use permit.
2. Should such non-conforming structure or non-conforming portion of a structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Commission. Any use or structure which is not substantially the same as the original use or structure must conform with the applicable provisions of this Regulation and applicable federal, state, and local building codes.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations this Regulation.
4. Any legal non-conforming structure altered to conform to the regulations of the district in which it is located shall thereafter remain in conformance with the regulations.

4.02.5 Non-Conforming Uses of Structures. If a lawful use of a structure, or of structures and premises exist at the effective date of adoption or amendment of this Regulation that would not be allowed in the district under the terms of this Regulation, the lawful use may be continued so long as it remains otherwise lawful provided that:

1. An existing structure devoted to a legal non-conforming use may only be enlarged, extended, constructed, or structurally altered after an approved conditional use permit. A conditional use permit is not required to change the legal non-conforming use to a permitted use.

2. Any non-conforming use may be extended to any other part of a structure designed for such use, but no such use may be extended in any way to occupy land outside the structure without an approved conditional use permit.
3. Any legal non-conforming use superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.
4. If a non-conforming use of a structure ceases for a period of more than 12 months, any subsequent use of such structure shall conform to the regulations of the district in which it is located. The period of cessation may be extended for one additional 12-month period with an approved conditional use permit.
5. If a non-conforming use is destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction. Reconstruction of a non-conforming use does not require prior approval of the Commission. Any use which is not substantially the same as the original use must conform with the applicable provision of this Regulation and applicable federal, state, and local building codes.

4.02.6 Repairs and Maintenance. On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to the extent not to exceed 15 percent of the replacement value of the building in any one year, provided that such work does not increase the cubic content of the building. Nothing in this Regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

4.02.7 Determination of Status of Non-Conforming Land Uses and Structures. It shall be the responsibility of the Zoning Enforcement Agent to determine the status of non-conforming land uses and structures. If the Zoning Enforcement Agent determines that a use or structure meets the applicable criteria in this Regulation and above, the use or structure shall be deemed an Approved Non-Conforming Land Use or Approved Non-Conforming Structure. The following procedures shall be followed to determine the status of non-conforming land uses and structures.

1. The owner of record of the subject use or structure shall make an application for a determination of the status of a land use or structure.
2. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Zoning Enforcement Agent with a preponderance of supporting information. Such information shall include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses and dated photographs.

3. The Zoning Enforcement Agent shall determine on a case-by-case basis whether a land use or structure is an existing non-conforming use or existing non-conforming structure.
4. Appeals of the Zoning Enforcement Agent's decision may be made in accordance with the provisions of the Administrative Appeals Process.
5. The Zoning Enforcement Agent shall maintain a record of existing non-conforming uses and structures as such information becomes available.

4.03 Land Use Permits

- 4.03.1 Intent. A Land Use Permit (LUP) is required prior to construction of most structures within the District. An approved LUP shows conformity with Regulation requirements.
- 4.03.2 Process. Landowners shall submit LUP applications (with accompanying fee) to the Planning Department for new structures as defined by this Regulation. The Zoning Enforcement Agent inspects applications to determine if projects comply with provisions of this Regulation.
- 4.03.3 Exempt Structures. Qualified accessory structures used exclusively for agricultural purposes are exempt from the LUP requirements and the maximum structure height standards; however all accessory structures must comply with the setback requirements.
- 4.03.4 Septic Permits. Landowners shall provide proof of septic or sewer permits with those projects which contemplate new facilities or extension of existing facilities.
- 4.03.5 Appeals. Appeals of Zoning Enforcement Agent decisions may be submitted under the Administrative Appeal Process.
- 4.03.6 Expiration. Land Use Permits expire if building or work authorized by the permit has not commenced within 12 months from the original permit date and if work authorized by the permit is not completed within 24 months of the original permit issuance date. Landowners must obtain a new permit, to re-commence work.

4.04 Conditional Use Permits

4.04.1 Intent. A Conditional Use Permit (CUP) is required prior to operation of a use that is not a principal use, but allowed conditionally under this Regulation.

4.04.2 Requirements. Structures or land within the District may not be used for any purpose unless such use is specifically listed as a principal use or conditional use in this Regulation. The Commission may grant a conditional use for CUP when they find:

1. The use conforms to the objectives of the Gallatin County Growth Policy and the intent of this Regulation.
2. The use will not adversely affect nearby properties or their occupants.
3. The use meets density, and all other regulations of the district in which it is located, unless otherwise provided in this Regulation.
4. A public hearing, after notice has been given, has been held.

4.04.3 Conditional Approval. The Commission may make the granting of a CUP subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways. The conditions may include but not be limited to the following:

- a. Landscaping and its maintenance.
- b. Regulation of height.
- c. Regulation of lighting.
- d. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat and noise.
- e. Regulation of placement of uses on the property.
- f. Regulation of signs.
- g. Regulation of the length of time such use may be permitted.
- h. Regulation of the nature and extent of the use.
- i. Regulation of time of activities that have off-site impacts.
- j. Regulation of vehicular ingress and egress.
- k. Requirement for dedication or improvements of rights-of-way.
- l. Requirements for restoration of property.
- m. Special setbacks, yards, open spaces, buffers, fences and walls.
- n. Appropriate fire mitigation.
- o. Time schedule of proposed development.
- p. Impacts of increased traffic.

- 4.04.4 Procedure. All CUP applications shall be submitted to the Planning Department on the required form with the accompanying fee. A public hearing on the matter is scheduled before the Commission and they shall either approve or deny the application based on the facts. The Commission may impose reasonable conditions, as it may deem necessary to mitigate project impacts. Use cannot commence until all conditions have been met.
- 4.04.5 Notice. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.
- 4.04.6 Issuance of Land Use Permit (LUP). No LUP shall be issued other than in accordance with the conditions and terms of the conditional use permit. No LUP shall be issued until time for appeal on a conditional use permit has elapsed, or if an appeal has been filed, the appeal has been decided.
- 4.04.7 Revocation or Modification. The Commission may revoke or modify a CUP under the following circumstances (under the procedure described above):
1. If circumstances have changed substantially since original approval.
 2. Revocation or modification is necessary to protect the health, safety, or welfare of the area, or is necessary to preserve the integrity of existing use patterns in the area.
 3. The person holding the permit has not complied with the required conditions, or has not materially changed their position by detrimentally relying on said permit.
- 4.04.8 Expiration/Extensions. The Commission may issue a CUP for a definite term. Extensions can be obtained through written application made 30 days prior to expiration, with accompanying fee, and notification sent to adjacent property owners. An extension shall be granted if no objection is received. A public hearing will be held if objection is received.

4.05 Natural Resources Conditional Use Permits

4.05.1 Natural Resources CUP Requirements. All exploration, development, and recovery operations relating to oil and gas, coal bed methane production including test wells, production wells, compressor stations, etc.; commercial quarries; surface and underground mining; and commercial logging or timber harvest shall require review under the natural resources conditional use permit process described in this Regulation. The Commission may grant such permit only if it is found:

- a. The use conforms to the objectives of the Gallatin County Growth Policy and the intent of this Regulation.
- b. The use will not adversely affect nearby properties, residents, groundwater, streams and wetlands.
- c. That non-renewable resource exploration and development occurs in a responsible manner.
- d. The use contributes and guarantees payment of an appropriate share of the costs for public services and facilities.
- e. That financial security has been provided to mitigate any such adverse effect.
- f. The use meets density, coverage, yard, height, and all other regulations of the district in which it is located, unless otherwise provided in this Regulation.
- g. The use meets all other applicable regulations.
- h. A public hearing, after notice has been given, has been held.

4.05.2 Preliminary Application. Applicant shall submit a preliminary application to the Planning Department including all required components as follows:

1. An initial development plan, prepared by the developer. Said plan, which shall be the preparatory basis for the Environmental Impact Study, shall address all the issues detailed below.
2. One original and 12 copies of the preliminary application. All preliminary applications shall be accompanied by the full fee established under the Planning Department Fee Schedule.
3. Cover letter describing project and submittal material.
4. Copy of associated mineral or timber leases.
5. Copy of order from the Montana Board of Oil and Gas Conservation, and associated stipulations; or documentation from federal, state, or local agencies related to commercial logging or timber harvest.
6. Name and address of property owners within a one-and-a-half mile radius of proposed project, including postage for certified mail to each address.
7. Name and location of all water wells, springs, and surface water within a one-and-a-half mile radius of proposed site.
8. Detailed site inventory map and site development plan (1" = 50'), to include all

existing and proposed structures, well pad location(s), rights-of-way, fencing, lighting, pipelines, pertinent surface features, areas of wildlife and wildlife habitat, and all development and mitigation measures associated with application. Applicant shall submit color photos of well location, and of area from proposed well to north, south, east and west.

9. Complete written description of project including but not limited to: proposed hours of operation; duration of project; operation of project, including staffing schedule(s) and estimated trips per day; traffic study and/or other information as required by the Gallatin County Road and Bridge Superintendent; fire and disaster mitigation plan(s); etc.
 10. An approved Noxious Weed Control and Revegetation plan through the Gallatin County Weed Control District.
 11. Plans for erosion mitigation and reclamation of all disturbances associated with project(s).
 12. Any additional information as deemed necessary by the Planning Department.
- 4.05.3 Final Application. Applicant shall submit a final application to the Planning Department including an Environmental Impact Statement, conducted by a third-party Montana State licensed professional engineer (PE) qualified to evaluate the project's impacts, at the developer's expense; and a Development Plan, prepared by the developer, as well as Performance Bonds and other securities and fees as indicated below:
1. Applicant shall provide the Development Plan based on Environmental Impact Study (EIS). The Development Plan shall:
 - a. Address surface owner's consent.
 - b. Document plans to protect property values.
 - c. Document plans for fire protection and emergency response.
 - d. Document adequate water quantity; demonstrate plans for protecting surface and ground water quality.
 - e. Demonstrate plans for conservation of important fish, wildlife and plant habitat.
 - f. Demonstrate plans for compliance with local, state and federal air quality regulations and/or standards.
 - g. Demonstrate plans for landscaping and its maintenance therefore, to limit soil erosion in compliance with local, state and federal soil management and conservation regulations and/or standards.
 - h. Demonstrate plans to comply with weed control regulations.
 - i. Include a schedule of phased-in development to diffuse impacts over time.
 - j. Demonstrate plans for compliance with Sections 85-2-205 and 82-11-175, MCA, and other state and federal laws regarding disposal of all ground water involved with coal bed methane wells.

- k. Demonstrate plans for reclamation for all disturbances associated with the project(s).

2. The EIS shall include:

- a. Appraisal of current property values.
- b. Analysis of effects of proposed development on fire and emergency response systems.
- c. Thorough collection of fish, wildlife and plant inventories.
- d. Collection of baseline data of existing surface and ground water quality and quantity.
- e. Collection of baseline data of existing air quality.
- f. Collection of baseline data of existing noise levels.
- g. An analysis by a qualified person or entity of the Development Plan's specific measures to protect and conserve: property values, water quality and quantity, agricultural and conservation usage, plant and wildlife habitat, air quality and noise levels.
- h. A schedule for effective third party monitoring, on at least a monthly basis, by a Montana State licensed and bonded environmental engineer, of all development, based on the submitted Development Plan, shall be determined by the Commission. The licensed and bonded environmental engineer third party monitor shall be agreed upon by the Commission and the applicant, in order to provide active enforcement of existing laws to protect private property and other rights of Montana citizens, and Montana's natural resources. Monitoring shall include a monthly report to the Commission. Such monitoring shall be at the sole expense of the applicant, and that cost by the applicant shall be guaranteed by specific performance bonds payable to the environmental engineer selected as the third party monitor. Failure to maintain payment to the monitor and adequate performance bonding for future payments, shall be cause for revocation of the CUP. All records generated as a result of such monitoring shall be made regularly available as public records for audit, on a monthly basis, through the Planning Department.

4.05.4 Conditional Approval. An application for CUP may be approved, conditionally approved or denied by the Commission. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist.

The Commission shall make the granting of the CUP subject to reasonable limitations or conditions as it may deem necessary to protect the health, safety, morals and welfare of the citizens of the District; and to mitigate or avoid adverse impacts on nearby property, residents, groundwater, streams and wetlands; and to ensure that non-renewable resource exploration and development occurs in a responsible manner and contributes and guarantees payment of an appropriate share of the costs for public services and facilities; and to make the proposed use more compatible and consistent with the South Cottonwood Canyon Zoning Regulation and the Gallatin County Growth Policy. Said conditions may include but not be limited to the following:

- a. A CUP application for mineral, oil and gas exploration or extraction shall consist of an application, containing the development plan, detailing the following conditions, and the EIS.
- b. A binding contract between the developer and an appropriate insurer for performance bonds, as specified above, and other appropriate guarantees acceptable to the Commission, sufficient to ensure mitigation and complete reclamation of all significant adverse impacts caused by or induced by the construction of the proposed conditional use.
- c. Regulation of vehicular ingress and egress.
- d. Regulation of hours of operation.
- e. Regulation of discharge of groundwater and surface water.
- f. A fee for discharged effluent, based upon one and one-half times the total estimated or actual costs of all environmental cleanup or mitigation performed by or for any public agency, in order to achieve compliance with this Regulation.
- g. Regulation of odors, smoke, dust, airborne particles, vibration, glare and noise emissions from point and non-point sources.
- h. Regulation for placement and height of structures required for the conditional use on the subject property.
- i. Requirement for dedication, improvements and/or maintenance of rights-of-way.
- j. Limitation of length of time or term such conditional use may be permitted.
- k. A schedule for effective monitoring of all development.
- l. Conditions for the approval may include changes to the Development Plan based upon information and data from the EIS and the public hearing(s) and the written comments from the public, so as to improve environmental and property protection.
- m. The Commission shall impose conditions requiring the developer to use best available low-impact technologies, such as aquifer recharge, clustered development, directional drilling, mufflers for compressor stations, discharge water desalination, infiltration or treatment, etc., to minimize impacts on underground water reserves, rivers and streams, and surface resources.
- n. The Commission shall impose conditions requiring the developer to guarantee complete reclamation of all disturbed areas. This guarantee shall be accomplished by requiring all mineral, oil and gas exploration or extraction developers to post separate site-specific performance bonds for each tract of property affected by the proposed CUP. Said performance bonds shall be payable to Gallatin County, and shall be equal to or greater than the current value of the property plus the potential cleanup cost of any resultant air, land or water pollution or degradation, as estimated by the required Development Plan and EIS. Failure to maintain adequate performance bonding shall be cause for revocation of the CUP.

4.05.5 The Commission shall, in addition to all other conditions, impose the following general conditions upon every CUP granted:

1. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general, and special conditions imposed by this CUP procedure.

2. That all of the special conditions shall constitute restrictions running with the land use, shall apply and be adhered to by the owner of the land, successors or assigns, shall be binding upon the owner of the land, his successors or assigns, shall be consented to in writing, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use.

4.06 Variances

4.06.1 Intent. It is the intent of this section to provide a process for relief from the occasional inequities created by the physical standards of this Regulation when such standards create a substantially unequal burden on a particular parcel of land in a fashion that would otherwise prevent the reasonable use of the property owing to physical circumstances unique to that parcel. In addition, the intent of this section is to prohibit the granting of variances that would be contrary to the public interest and endanger public health, safety and welfare. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located.

4.06.2 Criteria. In granting a variance, the BOA shall issue findings setting forth factual evidence that the variance:

1. Will observe the intent and purpose of this Regulation, including the Gallatin County Growth Policy, and do substantial justice.
2. Will not be injurious to the public health, safety, and general welfare.
3. Will not be contrary to and will serve the public interest.
4. Is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of this Regulation:
 - a. Hardship does not include difficulties arising from actions, or otherwise be self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
 - b. Conditions unique to the property may include, but are not limited to, slope, presence of watercourses, after the fact imposition of additional regulations on previously lawful parcels, and governmental actions outside of property owner's control.
5. Is the minimum relief necessary to provide reasonable use of the property.

4.06.3 Procedure. All variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any variance from this Regulation.

4.06.4 Notice. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

4.07 Amendments

- 4.07.1 Intent. This Regulation and the boundaries of the zoning map may be amended or revised whenever the public health, safety and general welfare requires such amendment. Amendments shall follow the procedure prescribed by Section 76-2-201 et seq., MCA, and this Regulation.
- 4.07.2 Procedure. An amendment may be initiated by submittal of one of the following to the Planning Department:
1. The petition of one or more landowners in the District. The petition shall be filed on the required application and accompanied by the required fee.
 2. Resolution of intention of the Commission.
 3. Resolution of intention of the Planning Board.
- 4.07.3 Planning Board. The Planning Board shall make recommendations on the revision of boundaries and the amendment of the Regulation to the Commission.
- 4.07.4 Hearing. The Commission shall consider all proposed amendments at a public hearing. The Commission may adopt the amendment in accordance with the procedure prescribed by Section 76-2-205, MCA.
- 4.07.5 Notice. Notice of the public hearing shall be published in a newspaper of general circulation pursuant to Section 76-2-205, MCA.

4.08 Complaints and Enforcement

- 4.08.1 Intent. It is the duty of the Commission, its officers, agents and employees to enforce the provisions of this Regulation.
- 4.08.2 Injunction. Upon order of the Commission, the County Attorney may bring an action in the name of the County of Gallatin in the District Court to enjoin violations of this Regulation.
- 4.08.3 Stop Order. Whenever any building work is being done contrary to the provisions of this Regulation, the Zoning Enforcement Agent shall order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop work until authorized by said agent to proceed with the work.
- 4.08.4 Compliance Regarding Violations. Any person may file a written complaint with the Zoning Enforcement Agent addressing a violation of this Regulation. The complaint shall state the causes and basis for the complaint. Upon receipt of the complaint, the Zoning Enforcement Agent shall record the complaint, investigate and take whatever action the Agent considers appropriate.
- 4.08.5 Remedies, Cumulative. The remedies provided for herein shall be cumulative and not exclusive.

5.00 DEFINITIONS AND GLOSSARY

5.01 Definitions

5.01.1 Intent. For the purposes of this Regulation certain words and terms used herein as defined. All words in this Regulation shall be first defined as provided herein and, if not defined herein, shall be defined in the Gallatin County Growth Policy and, if not defined therein, shall have their customary dictionary definitions.

5.01.2 The Rules of Interpretation. The following rules of interpretation and definitions apply to the definitions for the South Cottonwood Canyon District. The Rules of Interpretation include: (1) the present tense includes the future tense; and (2) all words in the plural number include the singular number unless the natural construction of the wording indicates otherwise; (3) the word 'shall' is always mandatory; (4) the word 'person' includes a firm, association, organization, partnership, trust, company or corporation as well as the individual.

-A-

Accessory Structure. A subordinate structure, or portion of the principal structure, located on the same lot as the principal building, which is customarily incidental to the principal structure. When part of an accessory structure is connected to a part of the principal structure by a common wall, such accessory structure shall be counted as part of the principal structure. Individual public utility installations aboveground are considered accessory buildings.

Accessory Use. A subordinate use of land that is customarily incidental to the principal use of the land.

Agriculture. The use of the land for grazing and cropping to produce food, feed, and fiber commodities. Examples may include: cultivation and tillage of the soil; dairying; growing and harvesting of agricultural or horticultural commodities; and the raising of livestock, bees or poultry. Not including any agriculture industry or business such as game farms, fur farms, animal hospitals, commercial dog kennels, horse stables, riding arenas, animal feeding operations or similar uses.

Agricultural Lands. Bona fide agricultural lands are those classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes, Section 15-7-201, MCA; and is land that is not devoted to a residential, commercial, or industrial use, Section 15-7-202, MCA.

Agricultural Structures, Exempt. All agricultural structures used exclusively for agricultural purposes on qualified agricultural lands.

Artist Studio, Individual. The use of premises by an artist, artisan, craftsperson engaged in the application, teaching, or performance of fine arts such as but not limited to dance, vocal or instrumental music, creative writing, painting, drawing, pottery, sculpture, video, still photography, foundry, welding, etc., including the sale of art produced on the premises.

-B-

Bedroom. Any room used for sleeping, with a closet, a door and an ingress/egress window in conformance with the International Building Code (IBC). An unfinished basement shall be considered as an additional bedroom.

Bed and Breakfast Inn. A dwelling serving guests on a nightly basis, used as the primary residence of the owner; and where food service is limited to breakfast, which may be served to overnight guests only.

Building Height. The vertical distance measured from the lowest point of elevation of the finished surface of the ground (including window wells, stairwells, or other similar features; excluding features such as usable patio areas) to the highest point on the roof or parapet wall. Where a building utilizes multiple roof styles or pitches, the highest point of each type of roof or parapet wall shall be in conformance with applicable height regulations as established for the respective roof pitches in each zoning district. Where the vertical difference between grade as defined in this section is greater than two feet between opposite elevations of the building, the height of the building may be increased by one foot for every one foot in grade difference up to a maximum of six additional feet.

Business or Commerce. Engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services; the maintenance or operation of offices or recreational or amusement enterprises.

-C-

Caretaker's Residence. Dwelling unit, subordinate to the principal dwelling, for the family of a person who takes care of the property of an owner who may be absent.

Commission, County. The elected Board of County Commissioners for Gallatin County, Montana and the governing body of Gallatin County planning and zoning.

Community Character. The image of a community or area as defined by such factors as its built environment, natural features, open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

Compatible land uses. The characteristics of different uses, activities or by design which allow them to be located or adjacent to each other in harmony and without conflict. Compatibility allows development that maintains the character of existing development.

Conditional Use. A use which is allowed conditionally within a district granted it meets specified design standards and certain criteria.

Conforming Use. Any use allowed by the regulations as a permitted use or conditional use.

Covenant. A recorded agreement stating certain activities and/or practices that are required or prohibited. Subdivision covenants are not enforced by the Planning Department.

-D-

Dedication. The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the use to which the property has been devoted.

Defensible Space. A designated area around a home or other structure the size of which is dependent on the vegetation, proximity of tree crowns, slope and distance to adjacent buildings. Within this area all weeds, dry grass, slash, flammable debris and flammable fuel is removed. This managed buffer surrounding buildings and structures is designed to reduce the chances of a fire spreading to or from the buildings or structures.

Density. The amount of residential development permitted per unit of land.

Developer. Any person, firm, or corporation, or any other entity involved in the physical development of any land.

Development. Any manmade change to improve or alter real estate, including but not limited to subdivision of land, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

Development Regulation. Any zoning, subdivision, site plan, official map, floodplain regulation, or other government regulation that affects the use and intensity of land development.

District. A part, zone, or geographical area within the county within which certain zoning or development regulations apply.

Dwelling, Accessory. A dwelling, subordinate to the principal dwelling, and which may be attached or detached from the principal dwelling, that provides separate and complete living facilities which may be further defined as a caretaker's residence, agricultural employee housing, guesthouse, or efficiency apartment, and which may be rented.

Dwelling, Single-family. A principal structure or portion thereof, used exclusively for human habitation, including a portions thereof providing permanent and independent living facilities for one family.

-E-

Eaves. The projecting lower edges of a roof overhanging the wall of a building.

Effluent. A discharge of liquid waste, with or without treatment, into the environment.

Egress. An exit.

Employee Housing. An accessory dwelling subordinate to the principal dwelling, restricted by covenant for use by persons and their families employed on site for full-time agricultural employment.

Encroachment. Any obstruction or illegal or unauthorized intrusion in a delineated floodplain, floodway, right-of-way, or on adjacent land.

Enlargement. An increase in the size of an existing structure or use, including physical size of the property, structure, parking, and other improvements.

Environmental Assessment. A statement of the effect of proposed development, and other major private or governmental actions, on the environment.

Equestrian Arena. An improved area, generally fenced, sized to accommodate equestrian activities involving horse riding or driving.

Equestrian Facility, Commercial. Commercial facilities that may include barns, stables, arenas, corrals, and paddocks for equine (horse, donkey, and mules) operations including: horse ranches, boarding stables, riding schools, equine exhibitions facilities and arenas accessory to the facility use.

Equestrian Facility, Personal. The use of structures and/or land to keep equine (horses, donkey, and mule) primarily for breeding and boarding and which operation is an incidental use of the land and/or structures. Does not include riding arenas where events open to the public are staged.

Erosion. The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as water, wind, ice and gravity.

Existing Use. The use of a lot or structure at the time of the adoption of a zoning regulation.

-F-

Family. *See* Household.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Frontage. The side of the lot abutting on a street; the front lot line.

-G-

GCCHD (Gallatin City-County Health Department). The department responsible for the regulation and approval of water and septic permits throughout the Country.

Garage, Private Residential. A structure that is accessory to a residential structure and that is designed or primarily used for the storage of vehicles owned and operated by the residents thereof.

Glare. (1) The reflection of harsh, bright light with an intensity great enough to reduce a viewer's ability to see; and (2) the physical effect resulting from luminances or insufficiently shielded light sources in the field of view.

Grade. (1) The lowest elevation of land around a structure; (2) the percent of rise or decent of a sloping surface.

Growth Policy, Gallatin County. The official document adopted by Gallatin County and used by the local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change in the unincorporated areas of Gallatin County. The required and optional elements of a growth policy are listed in Section 76-1-601, MCA.

Governing Body. The governing authority of any governmental unit organized pursuant to law. In Gallatin County, the County Commission is the governing authority.

Guest House. An attached or detached accessory structure used to house guests of the occupants of the principal structure.

-H-

High Water. The highest level reached by a body of water.

Home-based Business. A legal activity carried out for gain by a resident and up to three employees, and conducted as a customary, incidental, and accessory use in the resident's dwelling, accessory structures, and on the premises.

Home Occupation. A legal activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling.

Household. (1) A person living alone; (2) any number of people related by blood, marriage, adoption, guardianship or other authorized custodial relationship; (3) two unrelated people and any children related to either of them; (4) not more than four unrelated people living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities.

Hydrology. The science dealing with the properties, distribution, and circulation of water and snow.

-I-

Incidental. Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

Ingress. Access or entry.

-L-

Land Use. A description of how land is occupied or utilized.

Landscape. (1) An expanse of natural scenery; (2) lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

Landscape Plan. A component of a development plan which may show: proposed landscape species (such as number, spacing, size at time of planting, and planting details); proposals for protection and irrigation of existing vegetation during and after construction; proposed treatment of hard soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

Light Pollution. Any adverse effect of man-made light.

Lighting, Fully Shielded. (Also referred to as cutoff-type lighting) Any outdoor light fixture shielded in such a manner that all light emitted (directly from the lamp and fixture) is projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Lighting, Outdoor. The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Livestock for Agricultural Use. The keeping of domestic animals for personal use for sale and profit as part of a bona fide agricultural operation.

Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Lot, Area. The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot Coverage. A measurement of intensity of land use, expressed as a percentage of a lot's total area that is impervious (i.e., does not absorb water). This portion includes, but is not limited to, the areas covered by buildings, structures, driveways, roads, and sidewalks.

Lot Line. A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot of Record. A lot which is part of a subdivision recorded in the office of the County Clerk and Recorder, or a lot described by metes and bounds, a copy of which has been recorded in the office of the County Clerk and Recorder.

-M-

Manufactured Home. A factory-built, single-family structure that is under the authority of 42 USC Section 5401, the National Manufactured Home Construction and Safety Standards Act, built on a permanent chassis, and is used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. This definition specifically does not include modular housing or recreational vehicle.

MCA (Montana Code Annotated). The collection of Montana statutes classified by subject.

Mineral Resource Development (Mining). The extraction of minerals, including solids, such as coal and ore; liquids, such as crude petroleum; and gases, such as natural gases. Including an operation that mines sand and gravel or mixes concrete or batches asphalt.

Mobile Home. A transportable, manufactured structure, suitable for year-round single-family household occupancy and having water, electrical and sewage connections similar to those of conventional dwellings. This definition applies to only units constructed prior to Federal Manufacturing Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare with the definition of manufactured home.

Modular Home. A dwelling unit meeting the standards of the International Building Code (IBC) which was mass produced in a factory, designed and constructed for transportation to a site for occupancy when connected to the required utilities and when permanently anchored to a permanent foundation, whether intended for a use as an independent, individual unit or in combination with other units to form a larger structure, and which does not have integral wheel, axles, or hitch.

-N-

Natural Environment. The physical conditions which exist within a given area, including land, water, mineral, flora, fauna, noise, light, and objects of historic or aesthetic significance.

Non-Conforming Parcel. A parcel, the area, dimensions or location of which was lawful prior to the adoption, revision, or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.

Non-Conforming Structure. A structure, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.

Non-Conforming Use. A use or activity that was lawful prior to the adoption, revision or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.

-O-

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, or their guests of land adjoining or neighboring such open space.

-P-

Parcel. A contiguous lot or tract of land owned and recorded as a property of the same persons or controlled by a single entity.

Parcel of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office.

Parking. On-site space reserved for the parking of motor vehicles, includes room to exit either side of vehicle, and with adequate maneuvering space and access to public roads.

Permitted Use. A use which is specifically listed as a principal or accessory use for a district and which meets the intent of the district without additional conditions or special review and approval being required.

Person. Any legal entity, organization, or human being according to Montana law.

Planning Board. The Gallatin County Planning Board. An 11-member, citizen's advisory board.

Planning Department. The Gallatin County Planning Department. The department responsible for the community development planning for the unincorporated area of the county.

Planning Director. The Director of the Gallatin County Planning Department and the person charged with the administration of this Regulation unless otherwise specifically noted in this Regulation.

Principal Use. A use or structure which determines the predominate or major use of the lot on which it is located. The principal use shall be that use which establishes the character of the property relative to surrounding or adjacent properties.

Property Owner. Any person, firm, corporation or other entity shown as being the legal owner of a tract, parcel, or lot in the records of the County Clerk and Recorder.

Property Owner's Association (Home Owner's Association). An association incorporated or not incorporated, combining individual property ownership with shared use or ownership of common property or facilities, or shared maintenance of subdivision or community facilities. This definition includes condominium associations.

Public Health and Safety. A condition of optimal well-being, free from danger or injury, for a community at large, not merely for an individual or small group of persons.

Public Improvement. Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, streets, sidewalks, curbs, gutters, street lighting, utilities and systems for water supply, sewage disposal and drainage.

Public Utility. A public utility shall include any enterprise providing heat, light, power, water, telegraph, telephone, railway and bus service, sewage service and audio, audio-visual and data-link communications.

-R-

Residential. Non-commercial single- or multi-family dwellings.

Retreat Center, Church or Youth Camp. A facility which (1) is operated by a non-profit organization; (2) provides opportunities for groups of people to congregate temporarily on a site for such purposes as education, recreation, enlightenment, contemplation, counseling, renewal, or solitude; and (3) by its nature, needs to be located in a natural environment that is set aside; and (4) which may provide meals and housing for participants during the period of the retreat or program only; and (5) may rely on recreational activities, utilizing both indoors and out of doors facilities which contribute to the full program experience. Such centers may not be utilized by the general public for meals or overnight accommodations. Housing for participants may include such accommodations as lodges, cabins, dormitories, and campgrounds or in such other temporary quarters. Principle kitchen and dining facilities shall be in a centrally located building, but individual housing units may have their own self-contained kitchens.

Right-of-way. (1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil and gas pipeline, water line, sanitary stormwater sewer, and other similar uses: (2) generally, the right of one to pass over the property of another.

Run with the land. A covenant or restriction of the use of the land contained in a deed and binding on the present and all future owners of the property.

Runoff. The portion of rainfall, melted snow, irrigation water, and any other liquids that flows across ground surface (and eventually is returned to streams).

-S-

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Seasonal Use. A use dependent on or controlled by the season of the year. Seasonal uses operate continuously during a period of less than 90 days in a calendar year.

Sediment. Solid material, both mineral and organic that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.

Sedimentation. The process of depositing materials from a liquid, especially in bodies of water.

Septic System. An underground system with a septic tank used for decomposition of domestic waste.

Setback. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

Setback Line. The line that is the required minimum distance from the street right-of-way or public access easement line or any other lot line that establishes the area within which structures must be placed.

Sign. Any device, fixture, placard, or structure that uses form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity or to communicate information of any kind to the public.

Sign, Off-Premises or Billboard. A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign, Portal. A rustic entrance gate of stone, log or lumber, or combinations thereof, which may contain words, symbols or brands, indicating the address or identity of the premises.

Sign Area. The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

Site Plan. The development plan for one or more lots on which shows the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulations; utility services; structures; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

Slide. The downhill mass movement of soil, rock, or snow resulting from failure of that material under stress.

Slope. The inclination of the surface of the land from the horizontal, usually expressed in percent or degrees and prior to development.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Structural Alteration. Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof rafters.

Substantial Damage. Damage sustained by a structure where the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred as determined by Gallatin County's last equalized assessment roll.

Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement; or before the damage occurs. It does not include alterations for listing on National Register of Historic Places or State Inventory of Historic Places; or to comply with existing local health and safety sanitary codes to assure safe living conditions.

-T-

Topography. General term to include characteristics of the ground surface such as plains, hills, mountains, degree of relief, steepness of slope, and other physiographic features.

Tract of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office.

Traffic Impact Study. A report analyzing anticipated roadway conditions with and without and applicant's development.

-U-

Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied for any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

-V-

Variance. Provision which allows modification to or waiver of the general development and building standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the variance is not contrary to the public's health, safety, and general welfare.

Vested Right. A right that cannot be changed or altered by changes in regulation.

Violation. The failure of a structure, subdivision, use of land, or other development to be fully compliant with this Regulation.

Water Quality. Chemical, physical, and biological characteristics of water that determine suitability for a particular use.

-W-

Watercourse. Any stream, river, creek, drainage, waterway, gully, ravine, or wash in which some or all of the water is naturally occurring, such as runoff or springs, and which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Worship, Places of. A structure, or group of structures, that by design and construction are primarily intended for conducting organized religious services and associated uses. May be referred to as a church, synagogue, temple, mosque, or other name as the facility that is used for prayer by persons of similar belief.

-Y-

Yard. Area suitable for recreation, gardens, green belts or household service activities, located on the same lot with a building, and which is open to the sky, free of undue hazard and readily accessible to the occupants of the building.

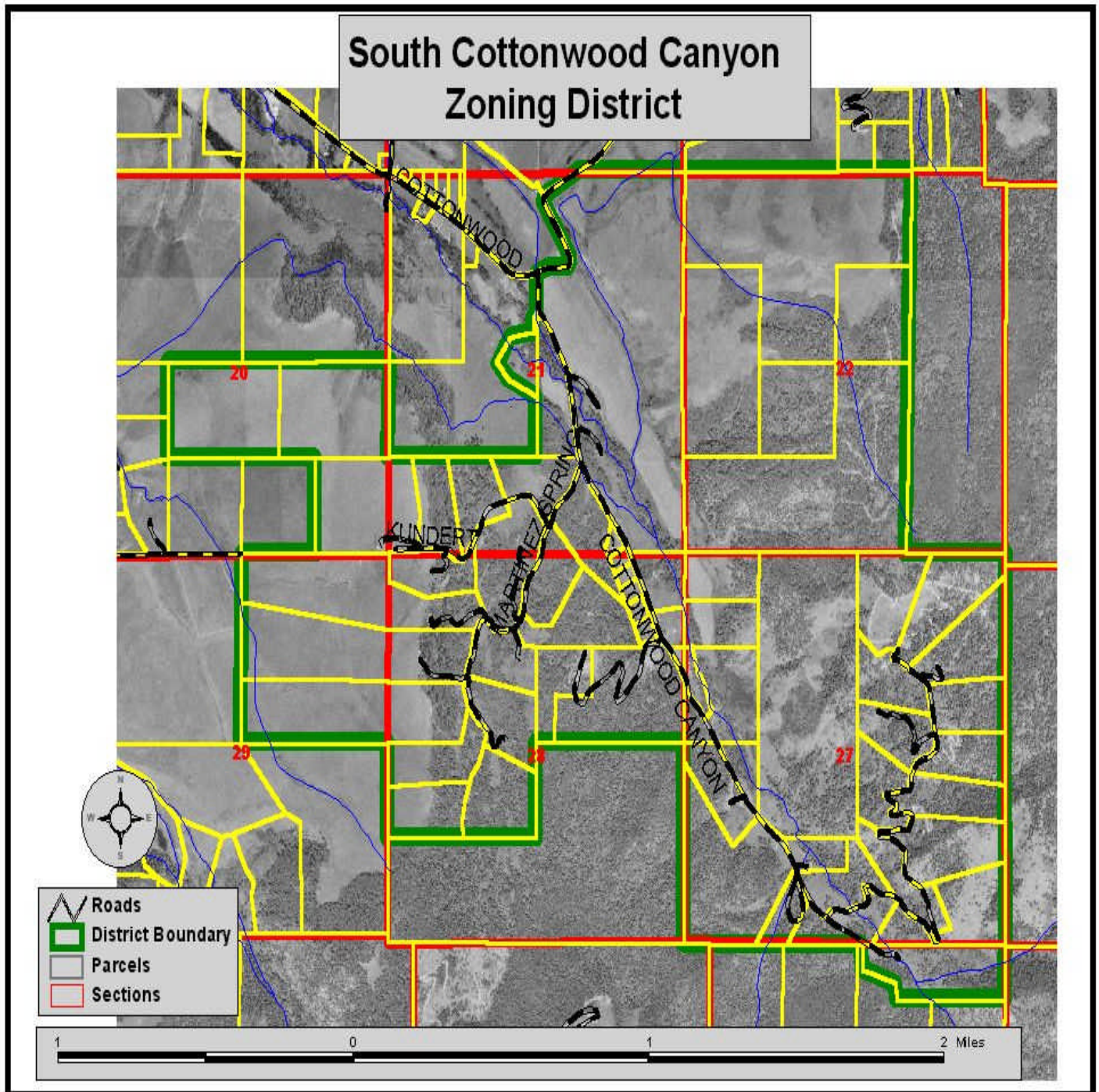
-Z-

Zoning. The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and structures.

Zoning Enforcement Agent. The duly authorized agent appointed by the County Commission for the purpose of administering and enforcing regulations.

Zoning Map. The map or maps that are a part of the zoning regulations and delineate the boundaries of the zone districts.

6.0 MAP



7.00 APPENDIX

- A Fire Protection Guidelines for Wildland Residential Interface Development**
- B Cottonwood Canyon Watershed Map**
- C Lighting Information**